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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO.  |
|---|-------------|----------------------|---------------------|-------------------|
| 10/721,727  | 11/25/2003  | Gary P. Raden        | MS306094.01         | 5767              |
| 27195   | 7590        | 12/10/2008           | EXAMINER            |                   |
| AMIN, TUROCY & CALVIN, LLP<br>127 Public Square<br>57th Floor, Key Tower<br>CLEVELAND, OH 44114 |             |                      |                     | JEAN GILLES, JUDE |
| ART UNIT  |             | PAPER NUMBER         |                     |                   |
| 2443  |             |                      |                     |                   |
|   |             |                      | NOTIFICATION DATE   | DELIVERY MODE     |
|   |             |                      | 12/10/2008          | ELECTRONIC        |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket1@thepatentattorneys.com  
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|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/721,727             | RADEN ET AL.        |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | JUDE J. JEAN GILLES    | 2443                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 26 September 2008.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-36 and 38-41 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-36 and 38-41 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 25 November 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date 10/05/2008.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

This Office Action is in Reply to communication filed on 09/26/2008.

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 10/05/2008 was filed after the mailing date of the 07/24/2008 on 07/24/2008. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Response to Amendment***

2. Claims 1, 21 and 36 have been amended. Claim 37 has been cancelled. Claims 1-36, and 38-41 are currently pending in this application and represent “SYSTEMS AND METHODS FOR UNIFYING AND/OR UTILIZING STATE INFORMATION FOR MANAGING NETWORKED SYSTEMS”.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-36, and 38-41 have been considered but are moot in view of the new grounds of rejection.

### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-36, and 38-41 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

**Regarding claim 1:** Claim 1 recites the steps of “*A system that facilitates networked system management, comprising: a component that obtains aggregated system state data for at least one system component based in part on one or more aggregation rules parameters that control at least one of how, what or when gathered information is aggregated; an analysis component that processes at least a portion of the aggregated system state data to determine at least one characteristic of at least one system state, the at least one characteristic employed to determine utilization of the networked system as a whole, of an individual system user and of a group of system users, the individual system user's utilization can be automatically limited based on a business rule a user's utilization of at least one aspect of the networked system; a control component that initiates a control response based in part on a system report provided by access to the aggregated system state; and a user interface that provides state related information based upon the state characteristic to a user; the user interface receives at least one user control parameter that facilitates improved utilization of the networked system, system alert reporting and aggregation control.*” These steps fails to definitely recite a hardware executing the computer software, rendering the claim as recited only an abstract idea. The claim equates merely to a computer code or concept per se since “*A system that facilitates networked system management, with various components*” in the context of the claimed invention are interpreted by the Examiner to

represent computer code or concept, which does not have a practical application or tangible result.

**Regarding claims 2-36, 38- 41: Claims 2-36, 38- 41** are also nonstatutory.

The independent claims are nonstatutory because of the reason mention for the rejection of claim 1 and the dependent claims are nonstatutory because they depend on a nonstatutory base claim.

Appropriate correction is required. The above noticed problems are just exemplary. Applicant is required to totally check the application for error and correct the same.

### ***Conclusion***

6. ***This action is made Non-Final.*** Any inquiry concerning this communication or earlier communications from examiner should be directed to Jude Jean-Gilles whose telephone number is (571) 272-3914. The examiner can normally be reached on Monday-Thursday and every other Friday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger, can be reached on (571) 272-4170. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-3301.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-0800.

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/Jude J Jean-Gilles/

Examiner, Art Unit 2443

JJG

December 05, 2008